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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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# UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

\* \* \* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAN ROUVEN FUECHTENER,

Defendant.

Case No. 2:16-cr-00100-GMN-CWH

**PLEA AGREEMENT UNDER FED. R.  
CRIM. P. 11(c)(1)(A) and (B)**

Plaintiff United States of America, by and through DANIEL G. BOGDEN, United States Attorney, and ELHAM ROOHANI, Assistant United States Attorney, the defendant, JAN ROUVEN FUECHTENER, and the defendant's attorney, JESS R. MARCHESE, ESQ., submit this Plea Agreement under Fed. R. Crim. P. 11(c)(1)(A and B).

## I. **SCOPE OF AGREEMENT**

The parties to this Plea Agreement are the United States of America and JAN ROUVEN FUECHTENER (the defendant). This Plea Agreement binds the defendant and the United States Attorney's Office for the District of Nevada. It does not bind any other prosecuting, administrative, or regulatory authority, the United States Probation Office, or the Court.

...

1 The Plea Agreement sets forth the parties' agreement regarding criminal charges  
2 referenced in the Plea Agreement and applicable sentences, fines, restitution and forfeiture. It  
3 does not control or prohibit the United States or any agency or third party from seeking any  
4 other civil or administrative remedies directly or indirectly against the defendant.

5 **II. DISPOSITION OF CHARGES AND WAIVER OF TRIAL RIGHTS**

6 A. Guilty Plea. The defendant knowingly and voluntarily agrees to plead guilty to  
7 the Criminal Indictment filed on March 30, 2016:

8 Count 1: Possession of Child Pornography in violation of 18 U.S.C. § 2252(a)(5)(B);

9 Count 2: Receipt of Child Pornography in violation of 18 U.S.C. § 2252A(a)(2) and (b);

10 Count 3: Distribution of Child Pornography in violation of 18 U.S.C. § 2252A(a)(2) and  
11 (b);

12 The defendant also agrees to the forfeiture of the property and the imposition of the  
13 forfeiture of the property as set forth in the Plea Agreement and the Forfeiture Allegation of the  
14 Criminal Indictment.

15 B. Waiver of Trial Rights. The defendant acknowledges that he has been advised and  
16 understands that by entering a plea of guilty he is waiving -- that is, giving up -- certain rights  
17 guaranteed to all defendants by the laws and the Constitution of the United States. Specifically,  
18 the defendant is giving up:

19 1. The right to proceed to trial by jury on all charges, or to a trial by a judge  
20 if the defendant and the United States both agree;

21 2. The right to confront the witnesses against the defendant at such a trial, and  
22 to cross-examine them;

23 3. The right to remain silent at such a trial, with assurance that his silence  
24 could not be used against him in any way;

4. The right to testify in his own defense at such a trial if he so chooses;

5. The right to compel witnesses to appear at such a trial and testify in the  
defendant's behalf; and

6. The right to have the assistance of an attorney at all stages of such

1 proceedings.

2 C. Withdrawal of Guilty Plea. The defendant will not seek to withdraw his guilty  
3 plea after he has entered it in court.

4 D. Additional Charges. The United States agrees not to bring any additional charges  
5 against the defendant arising out of the investigation in the District of Nevada which culminated  
6 in this Plea Agreement and based on conduct known to the United States except that the United  
7 States reserves the right to prosecute the Defendant for any crime of violence as defined by 18  
8 U.S.C. § 16.

8 **III. ELEMENTS OF THE OFFENSES**

9 A. The elements of Possession of Child Pornography under 18 U.S.C. §  
10 2252A(a)(5)(B) are:

11 1. The defendant knowingly possessed child pornography, as defined by 18  
12 U.S.C. § 2256(8), or material which contained such child pornography;

13 2. Such items of child pornography or material containing such child  
14 pornography had been mailed, shipped or transported in interstate or foreign commerce, by any  
15 means, including by computer; and,

16 3. The defendant knew that such item(s) or material constituted or contained  
17 child pornography as defined in 18 U.S.C. § 2256(8).

18 B. The elements of Receipt of Child Pornography under 18 U.S.C. § 2252A(a)(2) are:

19 1. The defendant knowingly received child pornography, as defined by 18  
20 U.S.C. § 2256(8), or material which contained such child pornography;

21 2. Such items of child pornography or material containing such child  
22 pornography had been mailed, shipped or transported in interstate or foreign commerce, by any  
23 means, including by computer; and,

24 3. The defendant knew that such item(s) or material constituted or contained  
child pornography as defined in 18 U.S.C. § 2256(8).

C. The elements of Distribution of Child Pornography under 18 U.S.C. § 2252A(a)(2)  
are:

1           1.     The defendant knowingly distributed child pornography, as defined by 18  
2 U.S.C. § 2256(8), or material which contained such child pornography;

3           2.     Such items of child pornography or material containing such child  
4 pornography had been mailed, shipped or transported in interstate or foreign commerce, by any  
5 means, including by computer; and,

6           3.     The defendant knew that such item(s) or material constituted or contained  
7 child pornography as defined in 18 U.S.C. § 2256(8).

8 **IV.   FACTS SUPPORTING GUILTY PLEA**

9           A.     The defendant will plead guilty because he is, in fact and under the law, guilty of  
10 the crimes charged.

11           B.     The defendant acknowledges that if he elected to go to trial instead of pleading  
12 guilty, the United States could prove his guilt beyond a reasonable doubt and establish its right to  
13 forfeit the specified property. The defendant further acknowledges that his admissions and  
14 declarations of fact set forth below satisfy every element of the charged offenses.

15           C.     The defendant waives any potential future claim that the facts he admitted in this  
16 Plea Agreement were insufficient to satisfy the elements of the charged offenses.

17           D.     The defendant admits and declares under penalty of perjury that the facts set forth  
18 below are true and correct:

19           1.     In August 2015, a Task Force Officer (TFO) from the FBI Buffalo Field  
20 Office Child Exploitation Task Force (CETF), operating in an undercover capacity, was accepted  
21 as a friend of an individual utilizing the user name "Lars45" on GigaTribe. On August 4, 2015,  
22 through a chat message within the GigaTribe peer-to-peer file sharing program, Lars45 initiated  
23 contact with the TFO and provided the password to Lars45's locked shared folders on GigaTribe.  
24 The TFO was able to browse Lars45's shared directories and observed hundreds file titles  
indicative of child pornography.

          2.     On September 14, 2015, the TFO signed on to GigaTribe and observed that  
Lars45 was again logged into the network. Using the password previously supplied by Lars45,  
the TFO successfully downloaded numerous files of child pornography from the password

1 protected folders Lars45 was sharing. The files of child pornography were from one IP address.  
2 The IP address that provided the password to the child pornography files was determined to  
3 originate from the Defendant's home address in Las Vegas, Nevada ("the Residence").  
4 Subpoenas sent to GigaTribe revealed that the account had an associated email address of  
5 larsschmidt22@hotmail.com.

6 3. On January 21, 2016, FBI Special Agent Mari Panovich executed a  
7 Federal search warrant at the Residence. Upon execution of the aforementioned search warrant,  
8 law enforcement made contact with Defendant at the subject residence, which is owned by the  
9 Defendant and his husband. The agents seized 38 devices located throughout the Residence.

10 4. Trained experts conducted forensic examination of the devices found  
11 throughout the Residence, and discovered that nine devices found in virtually every area of the  
12 house contained child pornography videos and images, including some of the images originally  
13 downloaded by the undercover TFO. One video, titled "blindbondage," which the undercover  
14 received was of a prepubescent male child, approximately 7 to 8 years old performing oral sex on  
15 an adult male's erect penis. The child is kneeling in front of the standing adult. The male child  
16 is wearing a black blindfold which covers his nose, eyes and forehead. At the end of the video,  
17 the adult male appears to ejaculate in the child's mouth. Another video, titled "(2013) toddler  
18 2012 man fuck little boy in ass (brilliant).flv," depicts a prepubescent male child, approximately  
19 3 to 4 years of age, lying on a bed while an adult's hand forces an adult male's erect penis into  
20 the child's anus. The child can be heard whimpering in the video. Yet another video, titled "8yo  
21 anal fuck POV – Sound – New 2014.rmvb," shows an adult male's erect penis engaging in anal  
22 sex with a child, unknown age or sex. The child can be heard yelling and crying in pain  
23 throughout the video. At the end of the video, the adult male ejaculates on the child's buttocks.

24 5. In sum, there were over 9000 child pornography videos found across  
25 devices. Most of the videos were over 5 minutes in length. Some videos were longer than 1 hour  
26 and 30 minutes duration. The videos in the Defendant's possession were downloaded from the  
27 internet by the Defendant.

28 6. Post-Miranda, the Defendant admitted that the Lars45 GigaTribe account

1 and the larsschmidt22@hotmail.com account belonged to him.

2           7. Using the Skype username larsusa22, the Defendant engaged in chats with  
3 another user wherein larsusa22 offers to distribute child pornography by sharing his GigaTribe  
4 Lars45 Folder (containing child pornography) in exchange for a thing of value, i.e. the other user  
5 having sex with his daughter on the webcam for larsusa22 to watch. Skype user account  
6 "larsusa22" is associated with the Defendant's email address larsschmidt22@hotmail.com.

7           8. Using Grindr profiles associated with his two email addresses,  
8 larsschmidt22@hotmail.com and janrouven@aol.com, the Defendant engaged in chats to  
9 coordinating watching "yng"/ "young"/ "young brothers"/ "young porn"/ "Perv porn" on a laptop  
10 in a hotel room in Las Vegas, and coordinating to "drug a young." In another Grindr chat, the  
11 Defendant indicates that he is into "taboo stuff, yng, and family." When asked more specifically  
12 "What ages do you like?," the Defendant responded "13-16."

13           9. On a jail call between the Defendant and his husband, the Defendant  
14 instructs his husband to delete evidence on an unspecified account by saying "delete the message  
15 if it contains anything that Mari shouldn't read," with "Mari" referring to Special Agent Panovich.

16           10. The defendant admits that the property listed in Section XI is (1) any visual  
17 depiction described in Title 18, United States Code, Section 2252A, or any book, magazine,  
18 periodical, film, videotape, or other matter which contains any such visual depiction, which was  
19 produced, transported, mailed, shipped or received in violation of Title 18, United States Code,  
20 Section 2252A(a)(2) and 2252A(a)(5)(B); (2) any property, real or personal, constituting or  
21 traceable to gross profits or other proceeds obtained from violations of Title 18, United States  
22 Code, Section 2252A(a)(2) and 2252A(a)(5)(B); and (3) any property, real or personal, used or  
23 intended to be used to commit or to promote the commission of Title 18, United States Code,  
24 Section 2252A(a)(2) and 2252A(a)(5)(B) or any property traceable to such property, and is  
subject to forfeiture pursuant to Title 18, United States Code, Section 2253(a)(1), 2253(a)(2), and  
2253(a)(3).

#### 23 V. COLLATERAL USE OF FACTUAL ADMISSIONS

24           The facts set forth in Section IV of this Plea Agreement shall be admissible against

the defendant under Fed. R. Evid. 801(d)(2)(A) at sentencing for any purpose. If the defendant does not plead guilty or withdraws his guilty pleas, the facts set forth in Section IV of this Plea Agreement shall be admissible at any proceeding, including a trial, for impeaching or rebutting any evidence, argument or representation offered by or on the defendant's behalf. The defendant expressly waives all rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410 regarding the use of the facts set forth in Section IV of this Plea Agreement.

# **VI. APPLICATION OF SENTENCING GUIDELINES PROVISIONS**

A. Discretionary Nature of Sentencing Guidelines. The defendant acknowledges that the Court must consider the United States Sentencing Guidelines ("USSG" or "Sentencing Guidelines") in determining the defendant's sentence, but that the Sentencing Guidelines are advisory, not mandatory, and the Court has discretion to impose any reasonable sentence up to the maximum term of imprisonment permitted by statute.

B. Offense Level Calculations. The parties stipulate and agree to the following calculation of the defendant's offense level under the Sentencing Guidelines, acknowledge that these stipulations do not bind the Court, and agree that they will not seek to apply any other specific offense characteristics, enhancements or reductions:

1.	Count 1: Receipt of Child Pornography	
	18 U.S.C. § 2252A(a)(2):	
	Base Offense Level, USSG § 2G2.2(a)(2):	22
	<b>Enhancements:</b>	
	Material Depicted Prepubescent Minor(s),	
	USSG § 2G2.2(b)(2):	+2
	Knowing Distribution	
	USSG § 2G2.2(b)(3)(F):	+2
	Sadistic or Masochistic Conduct	
	USSG § 2G2.2(b)(4)	+4
	Pattern of Activity	
	USSG § 2G2.2(b)(5)	+5
	Use of a Computer	
	USSG § 2G2.2(b)(6):	+2
	600+ images	
	USSG § 2G2.2(b)(7)(D):	+5



**Total Offense Level**

**42**

**Reductions:**

Contingent Reduction for  
Acceptance of Responsibility  
USSG §3E1.1(a):

- 2

**Adjusted Offense Level:**

**40**

The parties agree and stipulate that no other specific offense characteristics will apply in this case. The defendant acknowledges that the statutory maximum sentence and the statutory minimum sentence limit the Court's discretion in determining the defendant's sentence notwithstanding any applicable Sentencing Guidelines provisions.

C. Reduction of Offense Level for Acceptance of Responsibility. Under USSG § 3E1.1(a), the United States will recommend that the defendant receive a two-level downward adjustment for acceptance of responsibility unless he (a) fails to truthfully admit facts establishing a factual basis for the guilty plea when he enters the plea; (b) fails to truthfully admit facts establishing the amount of restitution owed when he enters his guilty plea; (c) fails to truthfully admit facts establishing the forfeiture allegations when he enters his guilty plea; (d) provides false or misleading information to the United States, the Court, Pretrial Services, or the Probation Office; (e) denies involvement in the offense or provides conflicting statements regarding his involvement or falsely denies or frivolously contests conduct relevant to the offense; (f) attempts to withdraw his guilty plea; (g) commits or attempts to commit any crime; (h) fails to appear in court; or, (i) violates the conditions of pretrial release.

D. Criminal History Category. The defendant acknowledges that the Court may base his sentence in part on the defendant's criminal record or criminal history. The Court will determine the defendant's Criminal History Category under the Sentencing Guidelines.

E. Relevant Conduct. The Court may consider any counts dismissed under this Plea Agreement and all other relevant conduct, whether charged or uncharged, in determining the applicable Sentencing Guidelines range and whether to depart from that range.



1           F.     Additional Sentencing Information.     The stipulated Sentencing Guidelines  
2 calculations are based on information now known to the parties. The parties may provide  
3 additional information to the United States Probation Office and the Court regarding the nature,  
4 scope, and extent of the defendant's criminal conduct and any aggravating or mitigating facts or  
5 circumstances.

6           Good faith efforts to provide truthful information or to correct factual misstatements shall  
7 not be grounds for the defendant to withdraw his guilty plea.

8           The defendant acknowledges that the United States Probation Office may calculate the  
9 Sentencing Guidelines differently and may rely on additional information it obtains through its  
10 investigation. The defendant also acknowledges that the Court may rely on this and other  
11 additional information as it calculates the Sentencing Guidelines range and makes other  
12 sentencing determinations, and the Court's reliance on such information shall not be grounds for  
13 the defendant to withdraw his guilty plea.

## 14     **VII.   APPLICATION OF SENTENCING STATUTES**

15           A.     Maximum Penalty.     The maximum penalty for Possession of Child Pornography  
16 under 18 U.S.C. § 2252A(a)(5)(B) is a 20-year prison sentence, a fine of \$250,000, or both. *See*  
17 18 U.S.C. § 2252A(b)(2); 18 U.S.C. § 3571(b)(3). The maximum penalty for Receipt of Child  
18 Pornography under 18 U.S.C. § 2252A(a)(2) is a 20-year prison sentence, a fine of \$ 250,000, or  
19 both. *See* 18 U.S.C. § 2252A(b)(1); 18 U.S.C. § 3571(b)(3). The maximum penalty for  
20 Distribution of Child Pornography under 18 U.S.C. § 2252A(a)(2) is a 20-year prison sentence, a  
21 fine of \$ 250,000, or both. *See* 18 U.S.C. § 2252A(b)(1); 18 U.S.C. § 3571(b)(3).

22           B.     Mandatory Minimum Sentencing Provision.     The statutory mandatory minimum  
23 sentence for Receipt and Distribution of Child Pornography 18 U.S.C. § 2252A(a)(2) is a 5-year  
24 prison sentence. The defendant understands that he cannot and will not receive a sentence that is  
lower than five years in prison.

          C.     Factors Under 18 U.S.C. § 3553.     The Court must consider the factors set forth in  
18 U.S.C. § 3553(a) in determining the defendant's sentence. However, the statutory maximum  
sentence and any statutory minimum sentence limit the Court's discretion in determining the

1 defendant's sentence.

2 D. Parole Abolished. The defendant acknowledges that his prison sentence cannot be  
3 shortened by early release on parole because parole has been abolished.

4 E. Supervised Release. In addition to imprisonment and a fine, the defendant will be  
5 subject to a minimum term of supervised release of 5 years, and up to a maximum term of life.  
6 18 U.S.C. § 3583(k). Supervised release is a period of time after release from prison during which  
7 the defendant will be subject to various restrictions and requirements. If the defendant violates  
8 any condition of supervised release, the Court may order the defendant's return to prison for all  
9 or part of the term of supervised release, which could result in the defendant serving a total term  
10 of imprisonment greater than the statutory maximum prison sentence of 20 years on any one  
11 count.

12 F. Special Assessment. The defendant will pay a \$100.00 special assessment per  
13 count at the time of sentencing.

14 **IX. POSITIONS REGARDING SENTENCE**

15 The parties will jointly recommend that the Court run the sentences imposed on Count 2  
16 and 3 run concurrently to each other. The parties further agree that the sentence for Count 1 shall  
17 run consecutive to the concurrent sentence imposed on Counts 2 and 3. The United States will  
18 seek a sentence at the applicable sentencing guideline range as determined by the parties.

19 The United States will recommend that the Court sentence the Defendant to a sentence  
20 within the applicable sentencing guideline range as determined by the parties, unless the  
21 defendant commits any act that could result in a loss of the downward adjustment for acceptance  
22 of responsibility. The defendant acknowledges that the Court does not have to follow that  
23 recommendation. The United States reserves its right to defend any lawfully imposed sentence  
24 on appeal or in any post-conviction litigation.

The defendant may request a downward adjustment pursuant to 18 U.S.C. § 3553 or USSG  
§ 4A1.3(b)(1) from any sentence the Court may impose.

1       X.       **RESTITUTION**

2               The defendant acknowledges that the conduct to which he is entering a plea is gives rise  
3 to mandatory restitution to the victim(s) under 18 U.S.C. § 2259. The defendant agrees that for  
4 the purpose of assessing such restitution, the Court may consider losses derived from the counts  
5 of conviction as well as losses caused from dismissed counts and uncharged conduct in which the  
6 defendant has been involved.

7               The United States and the defendant stipulation and agree that that the child pornography  
8 images received, distributed, or possessed by the Defendant depicted images of victims being  
9 sexually abused and further agree that a victim's knowledge that images of his or her abuse is  
10 being disseminated and possessed by other and caused certain victims to be re-victimized and has  
11 resulted in harm that is distinct from that suffered from the actual contact physical sexual abuse,  
12 thus such victims are harmed by the actions of the defendant.

13               In consequence of these factors, if the Government meets its burden under 18 U.S.C. §  
14 2259 and pursuant to *Paroline v. United States*, 134 S. Ct. 1710 (2014), the defendant agrees to  
15 pay restitution in the amount of \$5,000.00 per victim, for any victim who may be identified  
16 through the Child Victim Identification Program (CVIP) and/or Child Recognition and  
17 Identification System (CRIS) and who requests restitution prior to sentencing.

18               The defendant further acknowledges that if his or her offense conduct occurred after May  
19 29, 2015, and unless the Sentencing Court finds the defendant to be indigent, an additional  
20 mandatory special assessment of \$5,000.00 per count must be imposed pursuant to the Justice for  
21 Victims of Trafficking Act of 2015 which amends 18 U.S.C. §3014.

22       XI.       **FORFEITURE**

23               The defendant knowingly and voluntarily:

24               A.       Agrees to the District Court imposing the civil judicial forfeiture or the criminal  
forfeiture of:

1. Apple MacBook Air Laptop, Model A1466, S/N C02LT0JWF74, w/ SanDisk  
Memory Card and Charger;
2. Apple iMac All in One CPU;

3. Apple wireless mouse and keyboard;
4. My passport Ultra external hard drive S/N WXP1EC4A6325;
5. Netgear, Model EX7000, S/N 46D1547RA189D;
6. Netgear Nighthawk WiFi Router, S/N 3V01485301A50 w/ Power Cord;
7. iPad 64GB, S/N J3024C81ETB;
8. Iomega hard drive, S/N 55BV121O45;
9. Apple iPad Air, Model A1474, S/N DVPLN7T3FK7;
10. Iomega hard drive, S/N 316441800;
11. MacBook Air, Model A1304, S/N W89391VT9A7;
12. Sony Laptop Computer, S/N 283320515104663 in black case w/ Power Cord;
13. Apple MacBook laptop, Model A1286, S/N C02N3C9CDV;
14. Apple Laptop, Model A1286, S/N W8017MAVAGU;
15. Apple MacBook Pro, Model A1398, S/N CO2L33X8FFT1;
16. Black/Grey WD MyPassport USB HDD, S/N WXB1AC41RPA;
17. Apple iPod 160GB, Model A1238, S/N 8K3448N9Z4;
18. 8GB Transcend USB;
19. 2 DVD's and 6 mini disks;
20. External USB Hard Drive – blue;
21. External USB Hard Drive, S/N WX91C8OAA4434T;
22. SanDisk 32GB Memory Card;
23. WD External HD, S/N WCC4E2DVZ6R2;
24. Black select desktop HD – Iomega, S/N XRAA379148;
25. Alarm Clock Recording Device Magnasonic, Model P1300, Tg#130100692;
26. Alarm Clock Recording Device Magnasonic, Model P1300, Tg#130100691;
27. Seagate External Hard Drive, S/N NA5R1GK4;
28. HP Pavilion DV8000, S/N CND6151SDY;

29. Gateway Desktop, Model SX803-2E, S/N PTG6S0200111105D21496C;

30. Apple iMac All in One;

31. Apple iMac All in One;

32. Apple iMac All in One;

33. Black Apple iPhone, Model A1332, ic: 597C-E2380A;

34. Iomega hard drive, S/N TGBK421146; and

35. Lexar 16 GB Thumb Drive

(all of which constitutes property);

B. Agrees to the abandonment, the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture of the property;

C. Abandons or forfeits the property to the United States;

D. Relinquishes all right, title, and interest in the property;

E. Waives his right to any abandonment proceedings, any civil administrative forfeiture proceedings, any civil judicial forfeiture proceedings, or any criminal forfeiture proceedings of the property (proceedings);

F. Waives service of process of any and all documents filed in this action or any proceedings concerning the property arising from the facts and circumstances of this case;

G. Waives any further notice to him, his agents, or his attorney regarding the abandonment or the forfeiture and disposition of the property;

H. Agrees not to file any claim, answer, petition, or other documents in any proceedings concerning the property;

I. Waives the statute of limitations, the CAFRA requirements, Fed. R. Crim. P. 7, 11, and 32.2, all constitutional requirements, including, but not limited to, the constitutional due process requirements of any proceedings concerning the property;

J. Waives his right to a jury trial on the forfeiture of the property;

K. Waives all constitutional, legal, and equitable defenses to the forfeiture or abandonment of the property in any proceedings, including, but not limited to, (1) constitutional

1 or statutory double jeopardy defenses and (2) defenses under the Excessive Fines or Cruel and  
2 Unusual Punishments Clauses of the Eighth Amendment to the United States Constitution;

3 L. Agrees to the entry of an Order of Forfeiture of the property to the United States;

4 M. Waives the right to appeal any Order of Forfeiture;

5 N. Agrees the property is forfeited to the United States;

6 O. Agrees and understands the abandonment, the civil administrative forfeiture, the  
7 civil judicial forfeiture, or the criminal forfeiture of the property shall not be treated as satisfaction  
8 of any assessment, fine, restitution, cost of imprisonment, or any other penalty the Court may  
9 impose upon the defendant in addition to the abandonment or the forfeiture;

10 P. Acknowledges that the amount of the forfeiture may differ from, and may be  
11 significantly greater than or less than, the amount of restitution; and

12 Q. Agrees to take all steps as requested by the United States to pass clear title of the  
13 property to the United States and to testify truthfully in any judicial forfeiture proceedings. The  
14 defendant understands and agrees that the property represents proceeds and/or facilitating  
15 property of illegal conduct and is forfeitable. The defendant acknowledges that failing to  
16 cooperate in full in the forfeiture of the property constitutes a breach of this Plea Agreement.

## 17 XII. SEX OFFENDER REQUIREMENTS (SORNA)

18 The defendant understands and agrees that under the Sex Offender Registration and  
19 Notification Act ("SORNA"), 42 U.S.C. § 16901 *et. seq.*, he must register as a sex offender and  
20 keep the registration current in each of the following jurisdictions: (1) where the defendant  
21 resides; (2) where the defendant is an employee; and (3) where the defendant is a student. The  
22 defendant understands that he must comply with all the registration requirements contained in  
23 SORNA. 42 U.S.C. § 16901 *et. seq.* The defendant further understands that the requirements for  
24 registration include, but are not limited to, providing defendant's name, residence address, and the  
names and addresses of any places where the defendant is or will be an employee or a student.

The defendant further understands that the requirement to keep the registration current  
includes, but is not limited to, informing at least one jurisdiction in which the defendant resides,  
is an employee, or is a student no later than three business days after any change of defendant's

1 name, residence, employment, or student status. The defendant has been advised, and  
 2 understands, that failure to comply with these obligations subjects the defendant to an additional  
 3 prosecution for failure to register as a sex offender under 18 U.S.C. § 2250(a).

#### 4 **XIII. FINANCIAL INFORMATION AND DISPOSITION OF ASSETS**

5 Before or after sentencing, upon request by the Court, the United States, or the Probation  
 6 Office, the defendant will provide accurate and complete financial information, submit sworn  
 7 statements, and/or give depositions under oath concerning his assets and his ability to pay. The  
 8 defendant will surrender assets he obtained directly or indirectly as a result of his crimes, and will  
 9 release funds and property under his control in order to pay any fine, forfeiture, or restitution  
 ordered by the Court.

#### 10 **XIV. THE DEFENDANT'S ACKNOWLEDGMENTS AND WAIVERS**

11 A. Plea Agreement and Decision to Plead Guilty. The defendant acknowledges that:

- 12 1. He has read this Plea Agreement and understands its terms and conditions;
- 13 2. He has had adequate time to discuss this case, the evidence, and this Plea  
 Agreement with his attorney;
- 14 3. He has discussed the terms of this Plea Agreement with his attorney;
- 15 4. The representations contained in this Plea Agreement are true and correct,  
 including the facts set forth in Section IV; and,
- 16 5. He was not under the influence of any alcohol, drug, or medicine that  
 17 would impair his ability to understand the Agreement when he considered signing this Plea  
 18 Agreement and when he signed it.

19 The defendant understands that he alone decides whether to plead guilty or go to  
 20 trial, and acknowledges that he has decided to enter his guilty plea knowing of the charges brought  
 21 against him, his possible defenses, and the benefits and possible detriments of proceeding to trial.  
 22 The defendant also acknowledges that he decided to plead guilty voluntarily and that no one  
 coerced or threatened him to enter into this Plea Agreement.

23 B. Waiver of Appeal and Post-Conviction Proceedings. The defendant knowingly  
 24 and expressly waives: (a) the right to appeal any sentence imposed within or below the applicable



1 Sentencing Guideline range as determined by the Court; (b) the right to appeal the manner in  
2 which the Court determined that sentence on the grounds set forth in 18 U.S.C. § 3742; and, (c)  
3 the right to appeal any other aspect of the conviction or sentence and any order of restitution or  
4 forfeiture.

5 The defendant also knowingly and expressly waives all collateral challenges,  
6 including any claims under 28 U.S.C. § 2255, to his conviction, sentence, and the procedure by  
7 which the Court adjudicated guilt and imposed sentence, except non-waivable claims of  
ineffective assistance of counsel.

8 The defendant reserves only the right to appeal any portion of the sentence that is  
9 an upward departure from the Sentencing Guidelines range determined by the Court.

10 The defendant acknowledges that the United States is not obligated or required to  
11 preserve any evidence obtained in the investigation of this case.

12 C. Removal/Deportation Consequences. The defendant understands and  
13 acknowledges that because he is not a United States citizen, then it is highly probable that he will  
14 be permanently removed (deported) from the United States as a consequence of pleading guilty  
15 under the terms of this Plea Agreement. The defendant has also been advised if his conviction is  
16 for an offense described in 8 U.S.C. § 1101(a)(43), he will be deported and removed from the  
17 United States and will not be allowed to return to the United States at any time in the future. The  
18 defendant desires to plead guilty regardless of any immigration consequences that may result  
19 from his guilty plea, even if the consequence is automatic removal from the United States with  
20 no possibility of returning. The defendant acknowledges that he has specifically discussed these  
21 removal/deportation consequences with his attorney.

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7 **XV. ADDITIONAL ACKNOWLEDGMENTS**

8 This Plea Agreement resulted from an arms-length negotiation in which both parties  
9 bargained for and received valuable benefits in exchange for valuable concessions. It constitutes  
10 the entire agreement negotiated and agreed to by the parties. No promises, agreements or  
11 conditions other than those set forth in this agreement have been made or implied by the  
12 defendant, the defendant's attorney, or the United States, and no additional promises, agreements  
13 or conditions shall have any force or effect unless set forth in writing and signed by all parties or  
14 confirmed on the record before the Court.

15  
16 DATE: 11-17-16.

DANIEL G. BOGDEN  
UNITED STATES ATTORNEY

Elham Roohani  
ELHAM ROOHANI  
ASST. UNITED STATES ATTORNEY

18  
19 DATE: 11-17-16

Jess R. Marchese  
JESS R. MARCHESE, ESQ.  
ATTORNEY FOR DEFENDANT

20  
21 DATE: 11-17-16

Jan Rouven Fuechtener  
JAN ROUVEN FUECHTENER  
DEFENDANT